



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/753,257	01/08/2004	Clemon Sigler JR.	SIGZ 2 00001	6689

7590 05/14/2004

FAY, SHARPE, FAGAN, MINNICH & MCKEE, LLP
Seventh Floor
1100 Superior Avenue
Cleveland, OH 44114-2518

EXAMINER

EVANS, ROBIN OCTAVIA

ART UNIT	PAPER NUMBER
----------	--------------

3752

DATE MAILED: 05/14/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/753,257	Applicant(s) SIGLER, CLEMON	
	Examiner Robin O. Evans	Art Unit 3752	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 08 January 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-12 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-12 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>1/08/2004</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1-3 are rejected under 35 U.S.C. 102(b) as being anticipated by Horvath et al. (6,223,757).

Horvath et al. shows a water spray enclosure having a plurality of fluidly interconnected tubes 110, translucent flexible covering 520 (column 4, lines 34-36), inlet fitting 102, water supply 104, and plurality of spray heads 180. Also note figure 1, which shows that tubes forming a plurality arches.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 4 and 5 are rejected under 35 U.S.C. 103(a) as being unpatentable over Horvath et al.

Horvath et al. shows all of the claimed limitations including a floor mat 500. Horvath also discloses in column 4, lines 34-36, that the flexible cover “may include colorful indicia that

Art Unit: 3752

is attractive to children” however Horvath et al. does not disclose the indicia as being aquatic indicia. It is deemed that the type of indicia used on the covering will be determined by the user having a desired look in mind. Therefore it would have been obvious to one of ordinary skill in the art to have made the colorful indicia of Horvath’s covering aquatic to provide a desired type of scenery that will be attractive to children.

5. Claims 6 and 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Horvath et al. in view of Healy (6,312,341).

Horvath shows all of the limitations claimed but does not show the floor mat defining “a space to be filled with air or water”. Healy shows another water slide 20 having spaces 26 filled with air and spaces 28 filled with water. It would have been obvious to one of ordinary skill in the art at the time the invention was made to have made the floor mat of Horvath et al. with a spaces to be filled with air and water so as to provide a floor mat that will cushion the impact of the user with the ground and helps retain the user on the slide, reducing the likelihood of the user slipping off of the sides as shown and suggested by Healy in column 1, lines 5-10.

6. Claims 7, 8 and 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Horvath et al. in view of Healy as applied to claims 6 and 12 above, and further in view of Sonagere.

The combination water spray enclosure of Horvath and Healy shows all of the limitations claimed but does not show the framework having a plurality of spikes. Sonagere shows another enclosure having spikes 20, 23 attached to the framework and engaging a covering. It would have been obvious to one of ordinary skill in the art at the time the invention was made to have made the Horvath-Healy combination enclosure with spikes as shown by Sonagere so as to make

Art Unit: 3752

the structure more stable and secure so that it does not move during use of the device such as when children are sliding through the enclosure will remain secured to the ground.

7. Claims 9 and 10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Horvath et al. in view of Ducey.

Horvath shows all of the claimed limitations but does not show a pump providing the water. Ducey shows another water spray enclosure having a pump 10. It would have been obvious to one of ordinary skill in the art at the time the invention was made to have used a pump to supply the water the Horvath's enclosure so as to be able to change the volume of water as suggested by Ducey in column 3, lines 49-56, so as to give the user a different feel of water by changing the flow rate or the pressure of the water.

As to claim 10, and the limitation of an oscillator, note that Horvath et al. discloses a rotating sprinkler so as to give a pulsating experience to the user, thus it is deemed that Horvath includes an oscillator.

Conclusion

8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Hinsperger, Dean, Rudell et al., Forbis et al., Moffett, III et al., Demeny and Edwards show devices in the general state in the art of the invention.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Robin O. Evans whose telephone number is (703) 305-5766. The examiner can normally be reached on Monday-Thursday, 6:30-5:00.

Art Unit: 3752

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Mar can be reached on (703) 308-2087. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Robin O. Evans
Primary Examiner
Art Unit 3752

5/11/04

roe